

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Greg Finch	Team: Squad #14	CCRB Case #: 201609799	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/25/2016 2:55 PM	Location of Incident: [REDACTED]	Precinct: 113	18 Mo. SOL 4/25/2018	EO SOL 4/25/2018	
Date/Time CV Reported Fri, 11/25/2016 11:37 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 11/25/2016 11:37 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Sanabria	13856	958048	113 PCT
2. POM Michael Osullivan	13084	950990	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christophe Sanabria	Force: Police Officer Christopher Sanabria pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Michael Osullivan	Force: Police Officer Michael O'Sullivan pointed his gun at § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Christophe Sanabria	Abuse: Police Officer Christopher Sanabria threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]
D.POM Christophe Sanabria	Discourtesy: Police Officer Christopher Sanabria spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Christophe Sanabria	Off. Language: Police Officer Christopher Sanabria made remarks to § 87(2)(b) [REDACTED] based upon race.	[REDACTED]

Case Summary

On November 25, 2016, § 87(2)(b) filed the following complaint online with the CCRB.

On October 25, 2016, at approximately 2:55 p.m., § 87(2)(b) was standing on the sidewalk with her husband § 87(2)(b) and daughters § 87(2)(b) and § 87(2)(b) on § 87(2)(b) in Queens. § 87(2)(b) and § 87(2)(b) were allegedly attacked by multiple members of the § 87(2)(b) family, including § 87(2)(b) and § 87(2)(b). During this fight, § 87(2)(b) used a knife and crutch and struck § 87(2)(b). Police Officer Christopher Sanabria and Police Officer Michael O'Sullivan exited a nearby RMP and approached the fight. PO Sanabria and PO O'Sullivan allegedly pointed their weapons at § 87(2)(b) (**Allegations A and B**). PO Sanabria allegedly told § 87(2)(b) he would shoot her if she did not put the knife down (**Allegation C**). PO Sanabria allegedly said to § 87(2)(b) "Drop the fucking knife," and allegedly said to PO O'Sullivan, "I can't believe this shit, is she fucking nuts?" (**Allegation D**). PO Sanabria handcuffed § 87(2)(b) as PO O'Sullivan controlled the crowd. PO Sanabria allegedly said to § 87(2)(b) "Stop spitting your nigger blood on me" (**Allegation E**). § 87(2)(b) was entered into an RMP and driven to the 113th Precinct.

No video footage was available for this incident.

This case exceeded the 90-day benchmark by six weeks due to delays in receiving police documents and locating witnesses.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined the option of mediation.
- A Notice of Claim was filed with the NYC Comptroller's Office regarding this incident (BR 01). A 50-H Hearing was scheduled but did not take place on § 87(2)(b) (BR 02).
- § 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b) does not have any prior CCRB complaints (BR 04).
- PO Sanabria has been a member of the NYPD for 2 years and has no prior complaints (see officer history).
- PO O'Sullivan has been a member of the NYPD for 5 years and has one prior complaint (see officer history).
 - In case #201502847, the Board exonerated one physical force allegation.

Potential Issues

The investigation was unable to obtain sworn witness statements beyond the § 87(2)(b) family. Although § 87(2)(b) provided a phone statement to the CCRB, she refused to provide a sworn statement and relayed that her daughter § 87(2)(b) did not wish to cooperate with the investigation (BR 05). Although § 87(2)(b) provided her husband § 87(2)(b) and daughter § 87(2)(b) to be interviewed at the CCRB, § 87(2)(b) refused to provide the name or contact information of any witnesses beyond her family members (BR 06).

Although § 87(2)(b) provided discharge paperwork from § 87(2)(b) Hospital she refused to sign a HIPAA for the investigation, so medical records were not obtained (BR 07).

Findings and Recommendations

Allegation A – Force: Police Officer Christopher Sanabria pointed his gun at § 87(2)(b)

Allegation B – Force: Police Officer Michael O’Sullivan pointed his gun at § 87(2)(b)

Allegation C – Abuse of Authority: Police Officer Christopher Sanabria threatened § 87(2)(b) with the use of force.

It is undisputed that § 87(2)(b) held a knife at the time PO Sanabria and PO O’Sullivan stopped her.

According to § 87(2)(b) an unidentified man dropped a knife on the ground, which she picked up and waved at the crowd around her (BR 07). § 87(2)(b) accused § 87(2)(b) of cutting her. § 87(2)(b) walked into the middle of the boulevard and § 87(2)(b) hit her with something—she thought was a coat with a rock in it because it just “bust” her whole lip and “everything started leaking.” § 87(2)(b) and § 87(2)(b) fought and moved south on § 87(2)(b) back towards the Laundromat. An RMP pulled up at the Laundromat, on the corner of § 87(2)(b) § 87(2)(b) PO Sanabria exited the passenger side of the RMP and PO O’Sullivan exited the driver side of the RMP. PO Sanabria approached § 87(2)(b) and told her to put the knife down, and that he was going to shoot her if she didn’t put the knife down. PO Sanabria and PO O’Sullivan pointed their service weapons at § 87(2)(b)

According to § 87(2)(b) picked up this knife to defend herself when a marked sedan RMP with sirens on pulled up and PO Sanabria and PO O’Sullivan exited the RMP and approached § 87(2)(b) (BR 08). PO Sanabria drew his weapon, pointed it at § 87(2)(b) from a distance of three to four feet and said, “Drop the fucking knife.” PO O’Sullivan also drew his weapon and pointed it at § 87(2)(b) from a distance of three to four feet.

According to § 87(2)(b) she did not see PO Sanabria draw his gun but did see him touch his holstered weapon (BR 09). According to § 87(2)(b) PO Sanabria and PO O’Sullivan pointed their weapons at § 87(2)(b) (BR 05).

According to PO Sanabria, he and PO O’Sullivan were standing at a nearby footpost when a fight broke out on the east sidewalk of § 87(2)(b) between § 87(2)(b) between two groups totaling about ten to fifteen participants (BR 10). PO Sanabria and PO O’Sullivan walked into the center of the crowd. PO Sanabria and PO O’Sullivan observed § 87(2)(b) waving a knife left and right in one extended arm and yelling, and that § 87(2)(b) had a laceration to her arm. PO Sanabria and PO O’Sullivan asked § 87(2)(b) multiple times to drop the knife. PO Sanabria did not draw his weapon or unholster his weapon during this incident. PO Sanabria did not know if PO O’Sullivan drew his weapon. § 87(2)(b) did not wave her knife at PO Sanabria. After five or six officer commands, § 87(2)(b) dropped the knife onto the ground. PO Sanabria was three or four feet in front of § 87(2)(b) when she finally dropped the knife. When asked why he did not draw his weapon, PO Sanabria said, “I wasn’t scared that a three inch blade would poke through me” and that it would limit his ability to manage the scene with his hands. Still, PO Sanabria said he would have been justified in drawing his weapon.

The statement of PO O’Sullivan largely corroborates PO Sanabria’s statement, with the following exceptions and additional information (BR 11). PO O’Sullivan and PO Sanabria drew

their weapons, and PO O’Sullivan pointed his weapon at § 87(2)(b) because she was holding a knife. PO O’Sullivan did not recall if PO Sanabria pointed his weapon at § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

To justifiably point his gun, an officer must possess an articulable belief that the potential for serious physical injury is present. NYPD Patrol Guide, Procedure 221-01 (BR 12).

§ 87(2)(b), § 87(2)(g)

Allegation D – Discourtesy: Police Officer Christopher Sanabria spoke discourteously to

§ 87(2)(b)

Allegation E – Offensive Language: Police Officer Christopher Sanabria made remarks to
§ 87(2)(b) **based upon race.**

It is undisputed that § 87(2)(b) s nose was bleeding during this incident. According to § 87(2)(b) during the fight § 87(2)(b) struck her with an unknown object resulting in a broken nose and bleeding lip (BR 07). When PO Sanabria approached § 87(2)(b) he said to himself, “I can’t believe this shit, is she fucking nuts?” PO Sanabria told § 87(2)(b) to “put the fucking knife down,” and to put her “fucking hands up.” As PO Sanabria handcuffed § 87(2)(b) she tried to explain that she was defending herself, and PO Sanabria said, “Stop spitting your nigger blood on me.” § 87(2)(b) provided discharge paperwork from § 87(2)(b) Hospital regarding her nasal fracture, but refused to sign a HIPAA for the investigation.

According to § 87(2)(b) PO Sanabria drew his weapon, pointed it at § 87(2)(b) from a distance of three to four feet and said, “Drop the fucking knife” (BR 08). § 87(2)(b) was spitting out blood, and PO Sanabria said, “Stop spitting.”

According to § 87(2)(b) during the fight § 87(2)(b) s mouth was swelling and she had a broken nose (BR 09). § 87(2)(b) spat blood and PO Sanabria said, “Stop spitting your nigger blood on me.”

According to § 87(2)(b) she was unsure if § 87(2)(b) spat blood on any officer during this incident, and did not recall if any officer used offensive language including any racial epithets during this incident (BR 05).

According to PO Sanabria, he and PO O’Sullivan asked § 87(2)(b) multiple times to drop the knife (BR 10). PO Sanabria did not recall if he said, “Drop the fucking knife.” PO Sanabria did not use any profanity with § 87(2)(b) during this incident. When asked if § 87(2)(b) spit blood onto him, PO Sanabria said, “I had blood on my jacket that day, whether or not it was from her or from that I couldn’t tell you.” PO Sanabria did not recall if the blood on his jacket was from § 87(2)(b) s laceration on her lip. PO Sanabria did not tell § 87(2)(b) to stop spitting blood on him and did not say, “Stop spitting your nigger blood on me.” When PO Sanabria travelled to the stationhouse, § 87(2)(b) said she had pain in her ankle under the aircast from her previous injury and she wanted to have the laceration on her lip checked out.

§ 87(2)(g)

PO O’Sullivan could not recall if PO Sanabria said, “I can’t believe this shit, is she fucking nuts,” “Put the fucking knife down,” or use any profanity toward § 87(2)(b). PO O’Sullivan did not recall if PO Sanabria told § 87(2)(b) “Stop spitting your nigger blood on me.” PO O’Sullivan did not recall observing blood on § 87(2)(b) s face or any physical injuries on § 87(2)(b). After being presented with the Command Log detailing a laceration to § 87(2)(b) s lip, PO O’Sullivan said that it did not refresh his recollection as to any injuries he observed on § 87(2)(b). PO O’Sullivan did not recall if § 87(2)(b) complained of any injury or received medical attention.

It is notable that neither § 87(2)(b) nor § 87(2)(b) alleged that PO Sanabria used offensive language in their phone statements or CCRB interviews (BR 13; BR 07; BR 08). After § 87(2)(b) alleged the offensive language use in her CCRB statement, § 87(2)(b) confirmed the allegation in a followup phone statement (BR 14).

§ 87(2)(b), § 87(2)(g)

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Squad:

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date